

Rules 17Ad-6 and 17Ad-7

Supporting Statement

A. Justification

(1) Necessity for Information Collection

As a result of the paperwork crisis that occurred in the late 1960s, during which the number of securities transactions exceeded the securities industry's capacity to process those transactions, Congress enacted the Securities Acts Amendments of 1975.¹ In order to establish a national system for the prompt and accurate clearance and settlement of securities transactions, Congress provided for a scheme of regulation with respect to the business of being a transfer agent. Those amendments to the Securities Exchange Act of 1934 ("Exchange Act") require transfer agents to meet minimum standards, as established by the Commission, in furtherance of the purposes of the Exchange Act and generally, to protect investors.

Transfer agents play an integral role in the national system for the clearance and settlement of securities transactions. Transfer agents cancel certificates presented for transfer, issue new certificates to the transferee and record the change of record ownership of securities on the issuer's securityholder records. They also prepare, maintain and certify securityholder records, disburse dividend and interest payments and mail security-owner communications such as proxy material and annual reports to shareholders.

To the extent transfer agents fail to perform their activities promptly, accurately and safely, the entire clearance, settlement and transfer process suffers. Moreover, substandard performance by transfer agents can affect the accuracy of an issuer's securityholder records and interrupt the channels of communication between issuers and securityholders. Thus, substandard performance by transfer agents can adversely affect issuers, broker-dealers, banks, other financial intermediaries, the investing public and the securities markets.

Based on experience in the operation of the transfer agent regulatory program, the Commission adopted Rules 17Ad-6 and 17Ad-7, which require registered transfer agents to make and keep current certain records such as: (1) specific operational data regarding the time taken to perform transfer agent activities (to ensure compliance with the minimum performance standards in Rule 17Ad-2 (17 CFR 240.17Ad-2)); (2) written inquiries and requests by shareholders and broker-dealers and response time thereto; (3) resolutions, contracts or other supporting documents concerning the appointment or termination of the transfer agent; (4) stop orders or notices of adverse claims to the securities; and (5) all canceled registered securities certificates.

(2) Purposes of and Consequences of Not Requiring the Collection of Information

Rules 17Ad-6 and 17Ad-7 were designed to accomplish two purposes. First, the recordkeeping requirements ensure that all registered transfer agents are maintaining the records

¹ Pub. L. No. 94-29, 89 Stat. 97 (June 4, 1975).

necessary to monitor and keep adequate control over their own performance. Second, the recordkeeping requirements allow the examination of registered transfer agents on an historical basis for compliance with applicable rules.

(3) Role of Improved Information Technology and Obstacles to Reducing Burden

Rules 17Ad-6 and 17Ad-7 do not state how information must be recorded but only states that certain information needed to determine a transfer agent's compliance with the applicable rules must be recorded. Therefore, improved information technology does not affect the transfer agent's recordkeeping requirements.

(4) Efforts to Identify Duplication

When Rules 17Ad-6 and 17Ad-7 were promulgated, the Commission consulted with other appropriate regulatory agencies ("ARA") (i.e., the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency) to prevent multiple recordkeeping requirements among the various ARAs. No other reporting requirement with respect to the information required to be reported under the Rule currently exists.

(5) Effect on Small Entities

Small transfer agents are exempt under Rule 17Ad-4(b) (17 CFR 240.17Ad-4(b)) from many of the recordkeeping requirements of Rules 17Ad-6 and 17Ad-7. The recordkeeping requirements imposed on these small entities are the minimal recordkeeping requirements needed to adequately fulfill their most basic duty to transfer securities and do not create any significant burden.

(6) Consequences of Less Frequent Collection

The records that must be made or retained under Rules 17Ad-6 and 17Ad-7 require regular updating because of the relationship between a transfer agent's function and the securities market (i.e., the on-going, daily transfer of record ownership of securities resulting from continuous trading activity in the market). Preparation and retention of these records are essential to establish record ownership of securities and to operate successfully as a registered transfer agent.

Less frequent reporting under the Rules would allow transfer agents experiencing operational difficulty to continue operating in such a manner, with a potential for further operational deterioration without informing the appropriate regulatory agencies. Such a situation would greatly increase risks to public investors and to the national system for clearance and settlement of securities transactions.

(7) Inconsistencies with Guidelines in 5 CFR 1320.5(d)(2)

The collection is conducted in a manner consistent with the guidelines in 5 CFR 1320.5(d)(2).

(8) Consultations Outside the Agency

The Commission promulgated Rules 17Ad-6 and 17Ad-7 after consulting with the other ARAs in accordance with Section 17A(d)(3)(A)(i) of the Exchange Act. Commission staff consulted with the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Office of the Comptroller of the Currency. Each stated that the recordkeeping requirements are not unduly burdensome and are reasonable.

(9) Payment of Gift to Respondents

Not applicable.

(10) Assurance of Confidentiality

The information required by Rules 17Ad-6 and 17Ad-7 is maintained in the possession of the registered transfer agents. Under Section 17(b) of the Exchange Act, the Commission and other ARAs have access to the records for inspection and examination purposes and, in appropriate circumstances, for investigations.

(11) Sensitive Questions

No questions of a sensitive nature are asked.

(12) Estimate of Respondent Reporting Burden

The time required to administer the retention of the necessary information varies from each transfer agent depending on the size and nature of the transfer agent's operation. In addition, some records are made on a daily basis, while other records must be made only once. The Commission estimates that, on average, each of the approximately 600 registered transfer agents spends approximately 500 hours per year are storing and retaining these records. The aggregate annual burden on all 600 transfer agents registered with the Commission as of December 15, 2008, is thus approximately 300,000 hours per year.

While not a cost burden under Item 13, below, the Commission estimates that the 500 hours per year per transfer agent translate to an internal cost of \$25,000 per year (\$50 per hour). Therefore, the aggregate annual cost for the approximately 600 transfer agents is approximately \$15,000,000. These estimates have been computed according to the guidelines set forth in GSA Guide to Estimating Reporting Costs (1973).

(13) Estimate of Total Annualized Cost Burden

The collections of information required by Rules 17Ad-6 and 17Ad-7 do not impose any cost burdens, as defined by the Paperwork Reduction Act, on transfer agents.

(14) Estimate of Cost to Federal Government

The rules do not impose any direct costs on the government because they are recordkeeping rules. However, the Commission staff spends approximately 347 staff days or 2,776 hours per year inspecting transfer agent records to ensure compliance with Rules 17Ad-6 and 17Ad-7. During FY 2009 operational costs to the Commission concerning Rules 17Ad-6 and 17Ad-7 will total approximately \$138,800 based on an average hourly cost of \$50. This figure is based on our computation of the value of staff time devoted to this activity and the related overhead valued at 35% of the value of staff time.

(15) Explanation of Changes in Burden

The total annual cost burden has been reduced from \$19,625,000 to \$15,000,000 and the total annual hourly burden has been reduced from 392,000 hours to 300,000 to reflect the decrease in the number of transfer agents that are registered with the Commission.

(16) Information Collection Planned for Statistical Purposes

Not applicable.

(17) Explanation as to Why Expiration Date Will Not be Displayed

Not applicable.

(18) Exceptions to Certification

Not applicable.

B. Collection of Information Employing Statistical Methods

No statistical methods are employed in connection with the collections of information.